

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMUEL RATCLIFFE,

Justice:
Docket No.:

Plaintiff,

Verified Complaint

- v. -

54TH BAKERY LLC,

Defendant.

Parties to this Action

1. The plaintiff is domiciled in Gordon County, Georgia.
2. The defendant 54TH BAKERY LLC ("54TH BAKERY") is a domestic limited liability company, duly organized and existing under and by virtue of the laws of New York State with a principal place of business in New York County.
3. At all times hereafter mentioned the defendant 54TH BAKERY owned and operated a business known as "Cafe Metro" located at 839 Seventh Avenue New York, New York ("the Premises").
4. At all times hereafter mentioned the defendant 54TH BAKERY was in the business of selling food and beverages to the general public and offered a seating area and bathrooms to its patrons at the Premises.

Basis of Jurisdiction and Venue

5. This Court has jurisdiction over this case pursuant to 28 USC §1332(a) in that there exists complete diversity of citizenship between the plaintiff and the defendant, and the matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.
6. This Court is a proper venue for this case pursuant to 28 USC §1391(b)(2) in that the Southern District of New York is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred and it is defendant's principal place of business.

Facts of the Case

7. The events giving rise to this lawsuit occurred on December 17, 2016 at defendant's Premises, and more particularly the downstairs bathroom.

8. On the above date the plaintiff and his wife were patrons at defendant's Premises. The plaintiff went downstairs to use the bathroom and slipped and fell on a freshly mopped floor. There were no signs or other warnings indicating that the floor had recently been mopped and was still wet.

9. The aforesaid occurrence and resultant injuries to plaintiff were caused entirely by reason of the carelessness and negligence of the defendant 54TH BAKERY, its agents, servants and/or employees, in the ownership, operation, management, maintenance, supervision and control of the Premises in causing, permitting and allowing the floor thereat to become and remain in a slippery, wet and dangerous condition; in mopping the floor without putting out "Wet Floor" signs or other warnings that the floor was wet; in failing to timely remedy the aforesaid dangerous conditions; in failing to remedy the aforesaid dangerous conditions although defendant knew or should have known of their existence, or actually created the conditions; in failing to provide a safe place for plaintiff and others to walk; in violating the applicable rules, laws, statutes, ordinances, and regulations.

10. As a result of the foregoing the plaintiff sustained serious injuries including a left arm proximal humerus fracture. The plaintiff was required to obtain medical care for his injuries and incurred costs of such care. He has endured pain and suffering as a result of his injuries. He has and continues to be limited in pursuing his usual activities as a result of his injuries.

11. This action falls within one or more of the exceptions set forth in CPLR §1602.

12. By reason of the foregoing the plaintiff has been damaged in a sum of money which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction of this matter.

WHEREFORE, the plaintiff demands judgment against the defendant for a sum of money having a present value that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction of this matter; together with the costs and disbursements of this action, attorneys' fees and any other relief which this Court deems just and proper.

Dated: New York, New York
January 2, 2018

SAKKAS CAHN & WEISS, LLP

By: 

Matthew Sakkas, Esq. (WMS 3351)
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Attorney Verification

Matthew Sakkas, Esq. (WMS 3351), hereby affirms under the penalties of perjury, as follows: I am the attorney for the plaintiff in the within action. I have read the foregoing ***Verified Complaint*** and know the contents thereof. The same is true to my knowledge except as to the matters alleged upon information and belief and as to those matters, I believe them to be true. The reason this verification is made your affiant and not by the plaintiff is that the plaintiff does not reside in the County wherein your affiant's office is located. The source of my information and the grounds for my belief as to all matters made on behalf of the plaintiff are information contained in your affiant's file.

Dated: New York, New York
January 2, 2018

SAKKAS CAHN & WEISS, LLP
By: 

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